

No. 15-0013 RV

¹ 1 CSR 15-3.446(4).

Findings of Fact

1. On July 22, 2014, St. John paid fees to the Department of Revenue to renew the license plates on his 1994 Dodge truck.
2. St. John sold the Dodge truck on October 10, 2014.
3. St. John surrendered the license plates and the tabs from the Dodge truck and made a refund request on November 29, 2014.
4. The Director denied the request for a refund on December 23, 2014.

Conclusions of Law

This Commission has jurisdiction over appeals from the Director's final decisions.² St. John has the burden to prove that he is entitled to a refund.³ Our duty is not merely to review the Director's decision, but to independently apply existing law to the facts and render a decision.⁴

St. John argues that a refund is appropriate because he will not use the license plates/tabs for the remaining period of time before the renewal expires. The Director argues that no provision of law authorizes her to issue a refund under these circumstances. The Director is correct.

A refund is a limited waiver of sovereign immunity and is not allowed unless expressly permitted by statute.⁵ "When a state consents to be sued, it may be proceeded against only in the manner and to the extent provided by the statute; and the state may prescribe the procedure to be followed and such other terms and conditions as it sees fit."⁶

Missouri statutes provide for refunds or credits against unused license plates and tabs only in limited circumstances. Section 301.121, for example, provides for a refund of certain

²Section 621.050, RSMo 2000. Statutory references are to RSMo Supp. 2013, unless otherwise noted.

³*Id.*

⁴*J.C. Nichols Co. v. Director of Revenue*, 796 S.W.2d 16, 20-21 (Mo. banc 1990).

⁵*Community Fed. Sav. & Loan Ass'n v. Director of Revenue*, 796 S.W.2d 883, 885 (Mo. banc 1990).

⁶*State ex rel. Brady Motorfrate, Inc. v. State Tax Comm'n*, 517 S.W.2d 133, 137 (Mo. 1974).

amounts paid when a license plate is surrendered, but only for commercial vehicles registered in excess of 54,000 pounds. By contrast, § 301.140.8, which applies to other motor vehicles, provides:

Upon the transfer of ownership of any currently registered motor vehicle wherein the owner cannot transfer the license plates due to a change of vehicle category, **the owner may surrender the license plates issued to the motor vehicle and receive credit for any unused portion of the original registration fee against the registration fee of another motor vehicle.** Such credit shall be granted based upon the date the license plates are surrendered. **No refunds shall be made on the unused portion of any license plates surrendered for such credit.**

(Emphasis added.) Section 301.140.3 provides:

License plates may be transferred from a motor vehicle which will no longer be operated to a newly purchased motor vehicle by the owner of such vehicles. The owner shall pay a transfer fee of two dollars if the newly purchased vehicle is of horsepower, gross weight or (in the case of a passenger-carrying commercial motor vehicle) seating capacity, not in excess of that of the vehicle which will no longer be operated. When the newly purchased motor vehicle is of greater horsepower, gross weight or (in the case of a passenger-carrying commercial motor vehicle) seating capacity, for which a greater fee is prescribed, the applicant shall pay a transfer fee of two dollars and a pro rata portion of the difference in fees. When the newly purchased vehicle is of less horsepower, gross weight or (in the case of a passenger-carrying commercial motor vehicle) seating capacity, for which a lesser fee is prescribed, **the applicant shall not be entitled to a refund.**

(Emphasis added.)

Section 301.140.8 allows a credit for the unused portion of the original registration fee against the registration fee of another motor vehicle upon transfer of ownership of a vehicle when the owner cannot transfer the license plates due to a change of vehicle category. This subsection expressly disallows a refund. The applicant is also not permitted a refund under § 301.140.3, which provides for a reduced transfer fee when license plates are transferred from

a motor vehicle that will no longer be operated to a newly purchased motor vehicle by the owner of such vehicles. No other provision of law authorizes refunds.

Because we do not find any provision of law authorizing a refund to St. John under the facts, we must deny St. John's request for a refund.⁷

Summary

We grant the Director's motion for a decision on the pleadings. James St. John is not entitled to a refund of the fees paid for renewal of the license plates and tabs for the 1994 Dodge truck.

SO ORDERED on February 11, 2015.

\s\ Sreenivasa Rao Dandamudi
SREENIVASA RAO DANDAMUDI
Commissioner

⁷We may only do what the law allows, and neither the Director nor the Commission may change the law. *Lynn v. Director of Revenue*, 689 S.W.2d 45, 49 (Mo. banc 1985).